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UNCLAS LIMA 004130

SIPDIS

SENSITIVE

E.O. 12958: N/A

TAGS: [PGOV](#) [PINS](#) [PE](#)

SUBJECT: SUPREME COURT DECIDES THAT REBEL LEADER ANTAURO HUMALA SHOULD BE TRIED IN ANDAHUAYLAS, NOT LIMA

REF: A. LIMA 357

[B](#). LIMA 93

[C](#). LIMA 37

[D](#). LIMA 12

Sensitive But Unclassified, Please Handle Accordingly

[1](#)1. (U) SUMMARY. Peru's Supreme Court ruled 9/21 that Ethno-Cacerist leader Antauro Humala and his followers should be tried in Andahuaylas, the site of their murderous January uprising, and not in Lima. The National Director of Prisons said he would not comply with the Court's ruling on transferring the prisoners, and the Public Prosecutor said he would file a request for a change of venue with the Andahuaylas Court. Holding the trial in Andahuaylas would seriously strain local resources, and legal wrangling over the location of the trial is expected to continue. END SUMMARY.

[1](#)2. (U) The Permanent Criminal Chamber of Peru's Supreme Court, under the direction of former Supreme Court President Hugo Sivina, ruled unanimously on 9/21 that the trial of Ethno-Cacerist leader Antauro Humala and 159 of his followers should be held in Andahuaylas, where Humala's January 2005 uprising (see refuels) took place, and not in Lima. The take-over of the Andahuaylas police station by the ultra-nationalists under Humala's leadership resulted in the death of four police officers and a hostage stand-off that lasted for four days. The long-awaited decision by the Supreme Court cited the principal of seeking the "natural venue," i.e., the presumption that a trial should occur in the locale where crimes are alleged to have taken place.

[1](#)3. (U) National Director of Prisons Wilfredo Pedraza announced that he would not comply with the Supreme Court's order to transfer the prisoners. Pedraza said the jail in Andahuaylas was designed to accommodate 90 prisoners, and that 168 were already being held there. Transferring the Ethno-Cacerists would almost double an already over-crowded contingent, and would further challenge the sparse local security force of 15 prison guards and 8 police officers. He also noted that unlike the Castro Castro and Lurigancho prisons in Lima, the jail in Andahuaylas did not have a secure courtroom adjacent to it.

[1](#)4. (U) Public Prosecutor Jacobo Romero said he would contest the Supreme Court decision by filing a request for a change of venue with the Andahuaylas District Court. Romero said the Peruvian Procedural Code contemplates such a change when there is "risk or uncontrollable danger" associated with the circumstances of a trial.

[1](#)5. (SBU) COMMENT: The Supreme Court's decision to have the Ethno-Cacerist trial take place in Andahuaylas is supported by abstract legal principle, but it ignores the practical reality of the very adverse conditions that exist there. Physical infrastructure and police presence will have to be markedly augmented if the case is to be heard in Andahuaylas, and the situation is exacerbated by the lingering undercurrent of community support in the highlands for Antauro's rebellion, and for the increased political activity of his brother, Ollanta Humala (septel). We expect that the matter is not fully settled, as many media and political figures have yet to weigh in. There will likely be further judicial maneuvering, as the judges in Andahuaylas will presumably be loathe to take on the risky responsibility that the Supreme Court has handed them.

POWERS